

AMENDED IN ASSEMBLY JUNE 1, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1354**

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**Introduced by Assembly Member Dodd**  
**(Coauthors: Assembly Members Bonilla, Bonta, Chávez, Eggman,**  
**Gonzalez, and Lopez)**  
(Coauthors: Senators Galgiani, Hancock, Leyva, Mitchell, and Wolk)

February 27, 2015

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An act to amend Section 12990 of the Government Code, relating to discrimination.

LEGISLATIVE COUNSEL'S DIGEST

AB 1354, as amended, Dodd. Discrimination: equal pay: state contracting.

Existing law subjects an employer who is, or wishes to become, a contractor with the state for public works, or for goods or services, to various nondiscrimination requirements. Existing law authorizes requiring an employer to submit a nondiscrimination program to the Department of Fair Employment and Housing for approval and certification, prior to becoming a contractor or subcontractor with the state, as well as requiring the provision of periodic reports of contractor or subcontractor compliance with that program.

This bill would enact the Equal Pay for Equal Work Act of 2015. The bill would require an employer with 100 or more employees, prior to becoming a contractor or subcontractor with the state, to submit ~~an income equality~~ *a nondiscrimination* program to the Department of Fair Employment and Housing ~~for approval and certification~~ and to submit periodic reports of its compliance with that program. *The bill would authorize the department to require approval and certification of the*

*program and permit the department to audit programs for compliance. The bill would permit the department to require an employer with fewer than 100 employees to submit a nondiscrimination report. The bill would require the income equality nondiscrimination program to include the collection of summary data on the compensation paid to employees, including data sorted by gender and race, and policies designed to ensure income equality and prevent unlawful discrimination. policies and procedures designed to ensure equal employment opportunities for all applicants and employees, an analysis of employment selection procedures, and a work force analysis, as specified. The bill would make a statement of legislative findings.*

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1     SECTION 1. This act shall be known, and may be cited, as the  
2     Equal Pay for Equal Work Act of 2015.  
3     SEC. 2. (a) The Legislature finds and declares the following:  
4     (1) According to data from the United States Census Bureau,  
5     full-time working women, on average, over the last decade, have  
6     continued to earn just 77 cents for every dollar a man earns. The  
7     wage gap is greater for women of color, with African American  
8     women being paid an average of 64 cents for every dollar paid to  
9     white, non-Hispanic men in 2013 and Latinas being paid just 56  
10    cents for every dollar paid to white, non-Hispanic men.  
11    (2) This wage disparity amounted to a yearly average wage gap  
12    of \$10,876 in 2013 between full-time working men and full-time  
13    working women. In total, the disparity represents more than \$490  
14    billion in lost wages for working women every year.  
15    (3) Disparities in pay for women have numerous negative  
16    impacts. This pay differential shortchanges women and their  
17    families by thousands of dollars a year and potentially hundreds  
18    of thousands of dollars over a lifetime. Nearly 4 in 10 mothers are  
19    primary breadwinners in their households, and nearly two-thirds  
20    are significant earners, making pay equity critical to the economic  
21    security of their families.  
22    (4) Equal pay for equal work is a fundamental precept in our  
23    nation and in California. Federal law, including the federal Equal  
24    Pay Act of 1963 (Public Law 88-38), Title VII of the Civil Rights

Act of 1964 (Public Law ~~88-352~~, 88-352), and Executive Order 11246 of September 24, 1965, entitled Equal Employment Opportunity, specifically prohibits arbitrarily compensating men and women differently for the same work, as does California's Equal Pay Act.

(5) On August 6, 2014, the United States Department of Labor's Office of Federal Contract Compliance Programs issued a notice of proposed rulemaking to required covered federal contractors and subcontractors with more than 100 employees to submit an annual equal pay report on employee compensation. In California, state contractors receiving public money are obligated to comply with equal pay laws and should provide the state with aggregate wage data to advance pay equity.

(b) It is the intent of the Legislature in enacting this act to promote pay equity and nondiscrimination in setting pay and making hiring or promotional decisions, and to obtain better data on ~~income inequality~~ *pay equity* to more wholly address the problem.

SEC. 3. Section 12990 of the Government Code is amended to read:

12990. (a) Any employer who is, or wishes to become, a contractor with the state for public works or for goods or services is subject to the provisions of this part relating to discrimination in employment and to the nondiscrimination requirements of this section and any rules and regulations that implement it.

(b) (1) Prior to becoming a contractor or subcontractor with the state, an employer ~~may be required to~~ *with 100 or more employees shall* submit a nondiscrimination program to the department ~~for approval and certification and may be required to~~ *and shall* submit periodic reports of its compliance with that program. *An employer with fewer than 100 employees may be required to submit a nondiscrimination program, and if so required shall comply with the requirements for employers with 100 or more employees. The department may require approval and certification of a nondiscrimination program and may audit programs for compliance.*

~~(2) Prior to becoming a contractor or subcontractor with the state, an employer with 100 or more employees shall submit an income equality program to the department for approval and certification and shall be required to submit periodic reports of its~~

1 compliance with that program. The income equality program shall  
2 include the collection of summary data on the compensation paid  
3 to employees, including data sorted by gender and race, and include  
4 policies designed to ensure income equality and prevent unlawful  
5 discrimination.

6 (2) A nondiscrimination program shall include policies and  
7 procedures designed to ensure equal employment opportunities  
8 for all applicants and employees, an analysis of employment  
9 selection procedures, and a work force analysis. The work force  
10 analysis shall include the following:

11 (A) An equal pay report that includes the total number of  
12 workers with a specific job category identified by worker race,  
13 ethnicity, and gender.

14 (B) Total wages required to be reported on Internal Revenue  
15 Service Form W-2 for all workers in a specific job category  
16 identified by worker race, ethnicity, and gender.

17 (C) The total hours worked for all workers in a specific job  
18 category identified by worker race, ethnicity, and gender.

19 (c) Every state contract and subcontract for public works or for  
20 goods or services shall contain a nondiscrimination clause  
21 prohibiting discrimination on the bases enumerated in this part by  
22 contractors or subcontractors. The nondiscrimination clause shall  
23 contain a provision requiring contractors and subcontractors to  
24 give written notice of their obligations under that clause to labor  
25 organizations with which they have a collective bargaining or other  
26 agreement. These contractual provisions shall be fully and  
27 effectively enforced. This subdivision does not apply to a credit  
28 card purchase of goods of two thousand five hundred dollars  
29 (\$2,500) or less. The total amount of exemption authorized herein  
30 shall not exceed seven thousand five hundred dollars (\$7,500) per  
31 year for each company from which a state agency is purchasing  
32 goods by credit card. It shall be the responsibility of each state  
33 agency to monitor the use of this exemption and adhere to these  
34 restrictions on these purchases.

35 (d) The department shall periodically develop rules and  
36 regulations for the application and implementation of this section,  
37 and submit them to the council for consideration and adoption in  
38 accordance with the provisions of Chapter 3.5 (commencing with  
39 Section 11340) of Part 1. Those rules and regulations shall describe  
40 and include, but not be limited to, all of the following:

1 (1) Procedures for the investigation, approval, certification,  
2 decertification, monitoring, and enforcement of nondiscrimination  
3 programs.

4 (2) The size of contracts or subcontracts below which any  
5 particular provision of this section shall not apply.

6 (3) The circumstances, if any, under which a contractor or  
7 subcontractor is not subject to this section.

8 (4) Criteria for determining the appropriate plant, region,  
9 division, or other unit of a contractor's or subcontractor's operation  
10 for which a nondiscrimination program is required.

11 (5) Procedures for coordinating the nondiscrimination  
12 requirements of this section and its implementing rules and  
13 regulations with the California Plan for Equal Opportunity in  
14 Apprenticeship, with the provisions and implementing regulations  
15 of Article 9.5 (commencing with Section 11135) of Chapter 1 of  
16 Part 1, and with comparable federal laws and regulations  
17 concerning nondiscrimination, equal employment opportunity,  
18 and affirmative action by those who contract with the United States.

19 (6) The basic principles and standards to guide the department  
20 in administering and implementing this section.

21 (e) Where a contractor or subcontractor is required to prepare  
22 an affirmative action, equal employment, or nondiscrimination  
23 program subject to review and approval by a federal compliance  
24 agency, that program may be filed with the department, instead of  
25 any nondiscrimination program regularly required by this section  
26 or its implementing rules and regulations. Such a program shall  
27 constitute a prima facie demonstration of compliance with this  
28 section. Where the department or a federal compliance agency has  
29 required the preparation of an affirmative action, equal  
30 employment, or nondiscrimination program subject to review and  
31 approval by the department or a federal compliance agency,  
32 evidence of such a program shall also constitute prima facie  
33 compliance with an ordinance or regulation of any city, city and  
34 county, or county that requires an employer to submit such a  
35 program to a local awarding agency for its approval prior to  
36 becoming a contractor or subcontractor with that agency.

37 (f) Where the department determines and certifies that the  
38 provisions of this section or its implementing rules and regulations  
39 are violated or determines a contractor or subcontractor is engaging  
40 in practices made unlawful under this part, the department may

- 1 recommend appropriate sanctions to the awarding agency. Any
- 2 such recommendation shall take into account the severity of the
- 3 violation or violations and any other penalties, sanctions, or
- 4 remedies previously imposed.

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